

**ORDINANCE NO. 2012-2**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 “ENVIRONMENT” TO CREATE ARTICLE VII “STORMWATER CONTROL” IN ORDER TO PROVIDE FOR STORMWATER MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, under the National Pollutant Discharge Elimination System (NPDES) program, all nonresidential properties that discharge wastewater directly from a point source (a discrete conveyance such as a pipe, ditch or channel) into a receiving waterbody are issued an NPDES permit; and

WHEREAS, in compliance with the renewed MS4 Phase I NPDES permit issued to the Village of Key Biscayne (the “Village”), the Village is required to adopt additional standards and regulations regarding water quality, including standards concerning discharges to the Village’s stormwater system; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Village Code Amended.** The Village Council hereby creates Article VII “Stormwater Control,” of Chapter 8 “Environment” as follows<sup>1</sup>:

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<sup>1</sup> Revisions following first reading of the Ordinance are shown as follows: additions are indicated by underlined text, and deletions are indicated by underlined and ~~strike-through~~ text.

**Article VII. Stormwater Control.**

**Sec. 8-415. Purpose and intent.**

The purpose of this article is to promote the health, safety and general welfare of the inhabitants of the vVillage. This article is intended to comply with federal and state law and regulations regarding water quality.

**Sec. 8-416. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized official means any employee or agent of the vVillage authorized in writing by the dDirector to administer or enforce the provisions of this article.

Director means the ~~director of public works~~ Village Manager or designee.

Discharge means any direct or indirect entry of any solid, liquid or gaseous matter.

Stormwater means any stormwater runoff, and surface runoff and drainage.

Stormwater system means the system of conveyances used for collecting, storing and transporting sStormwater owned by the vVillage, but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

**Sec. 8-417. Illicit discharges.**

(a) Prohibitions. Except as set forth under subsection (b) of this section or as in accordance with a valid National Pollutant Discharge Elimination System (NPDES) permit, any dDischarge to the sStormwater sSystem that is not composed entirely of sStormwater is prohibited. Further, any

~~d~~Discharge to the ~~s~~Stormwater ~~s~~System containing any sewage, industrial waste or other waste materials, or containing any materials in violation of federal, state, county, ~~municipal~~ Village or other laws, rules, regulations, orders or permits is prohibited.

(b) *Authorized exceptions.* Unless the ~~d~~Director determines that it is not properly managed or otherwise is not acceptable, the following ~~d~~Discharges are exempt from the general prohibitions set forth under subsection (a) of this section:

(1) ~~Flows from firefighting, water line flushing and other contributions from potable water sources;~~

(2) ~~Landscape irrigation and lawn watering;~~

(3) ~~Irrigation water;~~

(4) ~~Diverted stream flows;~~

(5) (4) ~~Rising groundwaters;~~

(6) (5) ~~Direct infiltration to the ~~s~~Stormwater ~~s~~System;~~

(7) (6) ~~Uncontaminated pumped groundwater;~~

(8) (7) ~~Foundation and footing drains;~~

(9) (8) ~~Water from crawl space pumps;~~

(10) (9) ~~Air conditioning condensation;~~

(11) ~~Springs;~~

(12) (10) ~~Individual residential car washings;~~

(13) (11) ~~Flows from riparian habitats and wetlands; and~~

(14) (12) ~~Dechlorinated swimming pool contributions. Chlorinated swimming pools shall not be drained into the ~~s~~Stormwater ~~s~~System with the following exceptions:~~

~~d~~Discharges associated with backwashing filters when the backwash cycle generates less than 1,000 gallons and chlorinated water overflowing from a pool associated with a storm event.

~~(c) Illicit connections.~~ No person ~~may~~ shall maintain, use or establish any direct or indirect connection to the ~~s~~Stormwater ~~s~~System that results in any ~~d~~Discharge in violation of this article. This prohibition is retroactive and applies to connections made prior to the date of this article, regardless of whether made under a permit, or other authorization, or whether permissible under the laws or practices applicable or prevailing at the time the connection was made.

~~(d) Administrative order.~~ The director ~~may~~ issue an order to any person to immediately cease any discharge, or any connection to the stormwater system, determined by the director to be in violation of any provision of this article, or in violation of any regulation or permit issued hereunder.

~~(e) (d) NPDES permits.~~ Any person who holds an NPDES permit shall provide a copy of such permit to the ~~d~~Director no later than ~~the later of~~ 60 calendar days after the effective date of ~~the ordinance from which this article is derived,~~ or 60 calendar days after issuance.

~~(f) (e) Notification of dDischarges.~~ As soon as any person has knowledge of any ~~d~~Discharge to the ~~s~~Stormwater ~~s~~System in violation of this article, such person shall immediately notify ~~the director by telephoning (305-365-8945) Miami-Dade County Permitting, Environment and Regulatory Affairs (PERA);~~ and if such person is directly or indirectly responsible for such ~~d~~Discharge, he or she shall also take immediate action to ensure the containment and clean up of such ~~d~~Discharge, and shall confirm such ~~telephone~~ notification in writing to the ~~d~~Director at

Village of Key Biscayne, 88 W. McIntyre Street Key Biscayne, Florida 33149, within three calendar days.

**Sec. 8-418. Inspections and monitoring.**

(a) Authority for inspections. Whenever necessary to make an inspection to enforce any of the provisions of this article, or regulation or permit issued hereunder, or whenever an aAuthorized oOfficial has reasonable cause to believe there exists any condition constituting a violation of any of the provisions of this article, or regulation or permit issued hereunder, any aAuthorized oOfficial may enter any property, building or facility at any reasonable time to inspect the same or to perform any duty related to the enforcement of the provisions of this article or any regulations or permits issued hereunder; provided that if such property, building or facility is occupied, such aAuthorized oOfficial shall first present proper credentials and request permission to enter, and if such property, building or facility is unoccupied, such aAuthorized oOfficial shall make a reasonable effort to locate the owner or other person having charge or control of the property, building or facility, and shall request permission to enter. Any request for permission to enter made hereunder shall state that the owner or person in control has the right to refuse entry, and that if entry is refused, the aAuthorized oOfficial may enter to make inspection only upon issuance of a search warrant by a duly authorized magistrate official. If the owner or person in control refuses permission to enter after such request has been made, the aAuthorized oOfficial is hereby authorized to seek assistance from any court of competent jurisdiction in obtaining entry. Routine or areawide inspections shall be based upon such reasonable selection processes as may be necessary to carry out the purposes of this article,

including but not limited to random sampling and sampling in areas with evidence of ~~s~~Stormwater contamination, non-~~s~~Stormwater ~~d~~Discharges or similar factors.

(b) *Authority for monitoring and sampling.* Any ~~a~~Authorized ~~o~~Official may establish on any property such devices as are necessary to conduct sampling or metering of ~~d~~Discharges to the ~~s~~Stormwater ~~s~~System. During any inspections made to enforce the provisions of this article, or regulations or permits issued hereunder, any ~~a~~Authorized ~~o~~Official may take any samples deemed necessary.

(c) *Requirements for monitoring.* The ~~d~~Director may require any person engaging in any activity or owning any property, building or facility ~~(including but not limited to a site of industrial activity)~~ to undertake such reasonable monitoring of any ~~d~~Discharge to the ~~s~~Stormwater ~~s~~System and maintenance of all private Stormwater structures, and to furnish ~~periodic~~ annual maintenance and monitoring reports to the Director.

#### **Sec. 8-419. Enforcement.**

~~(a) *Injunctive relief.* Any violation of any provision of this article, or of any regulation or order issued hereunder, shall be subject to injunctive relief if necessary to protect the public health, safety or general welfare.~~

~~(b) *Continuing violation.* A person shall be deemed guilty of a separate violation for each day during any continuing violation of any provision of this article, or of any regulation or permit issued hereunder.~~

~~(c)~~ (a) *Enforcement actions.* The ~~d~~Director may take all actions necessary, including the issuance of notices and violations, the filing of court actions, and/or referral of the matter to the

board of special magistrates in accordance with Article III of Chapter 2 of this code, to require fines and enforce compliance with the provisions of this article and with any regulation or permit issued hereunder.

(b) Stop work orders. In addition to other remedies for violation as provided in this section, violation of this article shall constitute grounds for the issuance of a stop work order by the building official in accordance with the provisions of the building code.

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this 7th day of February, 2012.

PASSED AND ADOPTED on second reading this 28th day of February, 2012.

  
MAYOR FRANKLIN H. CAPLAN

ATTEST:

Conchita H. Alvarez

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Paul Fiedler

VILLAGE ATTORNEY



# MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE:

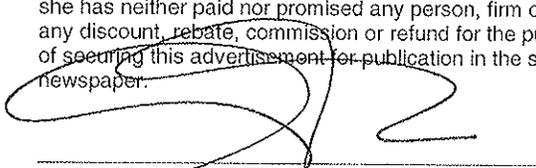
Before the undersigned authority personally appeared MARIA MESA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF KEY BISCAYNE  
ORDINANCES MEETING - FEB. 28, 2012

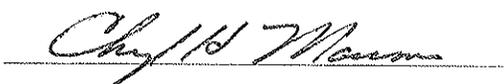
in the XXXX Court,  
was published in said newspaper in the issues of

02/16/2012

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

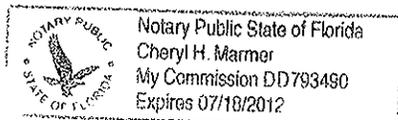


Sworn to and subscribed before me this  
16 day of FEBRUARY, A.D. 2012



(SEAL)

MARIA MESA personally known to me



## VILLAGE OF KEY BISCAYNE

### OFFICE OF THE VILLAGE CLERK

#### PUBLIC NOTICE

Notice is hereby given that the following ordinances will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, February 28, 2012 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 "ENVIRONMENT" TO CREATE ARTICLE VIII "SOIL EROSION, FUGITIVE DUST AND SEDIMENT CONTROL" TO PROVIDE FOR SOIL EROSION AND SEDIMENT POLLUTANT MANAGEMENT AND CONTROL REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 "ENVIRONMENT" TO CREATE ARTICLE VII "STORMWATER CONTROL" IN ORDER TO PROVIDE FOR STORMWATER MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinances may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Conchita H. Alvarez, MMC  
Village Clerk

2/16

12-4-231/1835602M